

Division of Securities
Utah Department of Commerce
160 East 300 South
P.O. Box 146760
Salt Lake City, Utah 84114-6760
Telephone: 801 530-6600
Facsimile: 801 530-6980

**BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

**IN THE MATTER OF THE LICENSE
OF:**

**STEPHEN H. POULTER, CRD#2609991;
BOSTON FINANCIAL, L.L.C.,
CRD #128157**

Respondents.

STIPULATION AND CONSENT ORDER

**Docket No. SD-05-0011
Docket No. SD-05-0012**

The Utah Division of Securities ("Division"), by and through its Director of Licensing, George Robison, and Stephen H. Poulter and Boston Financial L.L.C., ("Respondents"), hereby stipulate and agree as follows:

1. Respondents are the subject of an investigation conducted by the Division into allegations that Respondents violated the Utah Uniform Securities Act ("Act"), Utah Code Ann. § 61-1-1, *et seq.*, as amended.
2. On March 14, 2005, the Division filed an Emergency Order to Cease and Desist and Order to Show Cause against Respondents.
3. In lieu of proceeding with a formal action, Respondents and the Division have agreed to settle this matter by way of this Stipulation and Consent Order ("Stipulation"). If



approved, the Stipulation will fully resolve all claims the Division has against Respondents pertaining to this matter.

4. Respondents admit the jurisdiction of the Division over Respondents and over the subject matter of this action.
5. Respondents waive any right to a hearing to challenge the Division's evidence and present evidence on Respondents' behalf.
6. Respondents have read the Stipulation, understand its contents and enter into this Stipulation voluntarily. No promises or threats have been made by the Division, nor by any member, officer, agent, or representative of the Division, to induce Respondents to enter into this Stipulation.
7. Respondents are represented by attorney Samuel S. McHenry and are satisfied with the legal representation they have received..

I. FINDINGS BY THE DIVISION

8. The Division's investigation into this matter revealed:
 - a. Boston Financial, L.L.C. ("Boston Financial"), CRD #128157 is a Utah limited liability company which maintains its principal place of business in Salt Lake City, Utah. Boston Financial was licensed as a state-covered investment adviser from January 23, 2004 until December 31, 2004.
 - c. Stephen H. Poulter ("Poulter"), CRD#2609991 is the principal and managing member of Boston Financial. Poulter is a resident of North Salt Lake, Utah. Poulter was licensed as an investment adviser representative of Boston Financial from January 23, 2004 until December 31, 2004.
 - d. In response to a customer complaint, on December 13, 2004, a Division examiner

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("examiner") attempted to conduct an audit of Respondents by traveling to 8 East Broadway Suite 501 and 66 Exchange Place in Salt Lake City, Utah, both of which locations are identified on the CRD and Respondents' SEC Form ADV - Uniform Application for Investment Adviser Registration ("Form ADV") as places of business for Respondents. Upon his arrival, however, the examiner learned that Respondents had not been at either location for a period of months. The examiner also unsuccessfully attempted to reach Respondents at the telephone number disclosed on the Form ADV.

- e. The Division e-mailed Poulter on December 13, 2004. In response, Poulter called the Division on December 14, 2004 at which time the Division requested information pertaining to the complaint. The examiner subsequently met briefly with Poulter on December 21, 2004. During the meeting, the examiner attempted to determine whether Respondents kept firm books and records as required by law. The examiner also informed Poulter of potential violations that needed to be corrected, such as the renewal of Respondents' licenses for the following year and payment of the appropriate filing fees.
- f. In addition, the Division informed Poulter that an audit was forthcoming and set a date to conduct the audit. The Division discussed with Poulter various requirements of the Utah Uniform Securities Act ("Act") which would be reviewed during the audit, including those contained in Sections 61-1-1 to - 4, - 13; Utah Administrative Rules R164-2-1, R164-4-2, R164-4-3, R164-4-4, R164-5-1, R164-5-3, R164-6-1g; and the Securities Exchange Act of 1934 (the "34 Act") as relates to books and records and annual disclosure requirements for



investment advisers.

- g. The examiner conducted an audit of Respondents on February 15 and 18, 2005, and had a follow-up meeting with Poulter on February 22, 2005 to obtain additional information.
- h. The Division's audit revealed numerous violations of the Act, including but not limited to the following:
 - 1. Respondents are not licensed to transact business in Utah;
 - 2. Respondents have shared compensation with non-licensed persons;
 - 3. Respondents have failed to maintain books and records as required by Utah law;
 - 4. Respondents have not complied with bonding and minimum net worth requirements;
 - 5. Respondents have not complied with performance-based fee and client disclosure requirements.

Licensing Violations

- 9. Section 61-1-3(3) of the Act states:

**It is unlawful for any person to transact business in this state as an investment adviser or as an investment adviser representative unless:
(a) the person is licensed under this chapter. . .**

- 10. Respondents violated Section 61-1-3(3) because they failed to renew their licenses but continued to act as an investment adviser and investment adviser representative.

Respondents were specifically informed on December 21, 2004 of the requirements to renew licenses for the agent and firm. No attempt was made to renew the licenses until



February 2005. After unsuccessfully attempting to renew the licenses through the internet-based Investment Adviser Registration Depository (“IARD”) as maintained by NASD, Poulter contacted NASD on February 9, 2005 and made a request to renew his license, forty-nine days after his meeting with Division, and thirty-nine days after Respondents’ licenses lapsed. Currently, Respondents are not licensed to act as an investment adviser, broker-dealer, investment adviser representative, or agent in the state of Utah.

11. Section 61-1-3(4)(a) of the Act provides:

It is unlawful for any:

(i) person required to be licensed as an investment adviser under this chapter to employ an investment adviser representative unless the investment adviser representative is licensed under this chapter. . .

12. In employing an unlicensed investment adviser representative, Poulter, Boston Financial also violated Section 61-1-3(4)(a)(I).

Sharing Compensation with Unlicensed Person

13. Section 61-1-2(1) states:

It is unlawful for any person who receives consideration from another person primarily for advising the other person as to the value of securities or their purchase or sale, whether through the issuance of analyses or reports or otherwise to:

.

(c) divide or otherwise split any consideration with any person not licensed under this chapter as an investment adviser or investment adviser representative.

14. The Division’s audit of Respondents revealed that they have shared consideration with two unlicensed persons, Clark Kain and Poulter’s ex-wife (name currently unknown) in violation of Section 61-1-2.



Books and Records Violations

15. Section 61-1-5 states:

(1)(a) Every licensed broker-dealer and investment adviser shall make and keep such accounts, correspondence, memoranda, papers, books, and other records as the division by rule prescribes. . .

(5) All the records referred to in Subsection (1) are subject at any time or from time to time to reasonable periodic, special, or other examinations by representatives of the division, within or without this state, as the division deems necessary or appropriate in the public interest or for the protection of investors.

16. Rule 164-5-1 of the Utah Administrative Code ("UAC") provides that:

...each investment adviser licensed or required to be licensed under the Act shall make, maintain, and preserve books and records in compliance with SEC Rule 204-2. . .

17. SEC Rule 204-2 requires, among other things, that an investment adviser maintain the following records for each client as well as additional records not relating to clients.

These records include:

- a. Client Contracts;
- b. Form ADV;
- c. Annual Offer of Disclosure;
- d. Insider Trading Policy;
- e. Client Records;
- f. General and auxiliary ledgers;
- g. All check books, bank statements, canceled checks and cash reconciliations;
- h. All bills or statements, paid or unpaid;
- I. Trial balances, financial statements and internal audit papers;
- j. A list of discretionary accounts;
- k. Powers of attorney and discretionary powers;
- l. Any summary of material changes to Part II of Form ADV that is not included in the written statement;
- m. A record of the delivery dates of the written statements noted above;
- n. Written acknowledgments of receipt obtained from clients and copies of the disclosure documents delivered to clients by solicitors;
- o. All accounts, books, and internal working papers that form the basis of any performance or rates of return used in advertisements;
- p. Written information for each client that forms the basis of suitability



determinations;

- q. All documents filed with or received from any state or federal agency or SRO;
- r. Copies of U-4s with original signatures and each disclosure amendment;
- s. Employee personal securities transaction records

18. Respondent Poulter has had twenty-five clients during the time he has been employed with Boston Financial. At the time of the audit, Respondents did not maintain any of the above required records, and accordingly violated Utah law. The only records maintained by the firm were bank statements and a few bills incurred by Respondents.
19. Section 61-1-5(4) of the Act states:

If the information contained in any document filed with the division is or becomes inaccurate or incomplete in any material respect, the licensee . . . shall promptly file a correcting amendment. . .

20. Respondents' Form ADV and information contained on the CRD indicate that Respondents' business address is located at 8 E. Broadway Ste. 501 and 66 Exchange Place in Salt Lake City, Utah. That information is inaccurate, and was not promptly updated as required by the Act.

Minimum Financial and Bonding Requirements

21. UAC Rule R164-4-5(F)(1) requires that every investment adviser having custody of or discretionary authority over client funds or securities shall be bonded:

(1)(a) in an amount determined by the Division based upon the number of clients and the total assets under management of the investment adviser, which shall be at a minimum of \$10,000. . .

22. During the Division audit, Poulter indicated that Respondents have discretionary authority over client accounts. Poulter acknowledged, however, that Respondents are not bonded.



Performance-Based Compensation

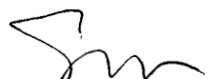
23. UAC Rule R164-2-1 sets forth requirements for performance-based investment advisory compensation, including but not limited to:
- a. requiring that the client be an “accredited” investor, that is, a person the investment adviser and its investment adviser representatives reasonably believe, immediately before entering into the contract, is a natural person or company whose net worth, at the time the contract is entered into, exceeds \$1,500,000.
 - b. before entering into the advisory contract and in addition to the requirements of Form ADV, the investment adviser must disclose in writing to the client all material fact information concerning the proposed advisory arrangement, including specific information set forth in the rule.
 - c. Respondents failed to comply with the above requirements because Respondents manage performance-based fee accounts for investors who are not accredited. Moreover, Respondents have no written investment advisory contracts, and thus failed to make the required material fact disclosures in writing.

II. ADMISSIONS BY RESPONDENTS

24. Respondents admit to the Division’s findings and to the foregoing violations of the Act.

III. REMEDIAL ACTION/SANCTIONS

25. Respondents shall cease and desist from engaging in any further conduct in violation of Utah Code Ann, §§ 61-1-2, -3, -5, or any other section of the Act.
26. Respondents are barred from acting as or associating with a broker-dealer or investment



adviser licensed in the State of Utah and shall not transact any securities business with Utah residents.

IV. FINAL RESOLUTION AND RELEASE

27. Respondents acknowledge that this Stipulation and Consent Order, upon approval by the Division Director, shall be the final compromise and settlement of this matter.
- Respondents further acknowledge that if the Division Director does not accept the terms of the Order, it shall be deemed null and void and without any force or effect whatsoever.
28. Respondents acknowledge that the Order does not affect any civil or criminal causes of action that third-parties may have against Respondent arising in whole or in part from Respondents' actions.
29. This Stipulation constitutes the entire agreement between the parties herein and supersedes and cancels any and all prior negotiations, representations, understandings, or agreements between the parties. There are no verbal agreements which modify, interpret, construe, or otherwise affect this Stipulation in any way.

Utah Division of Securities

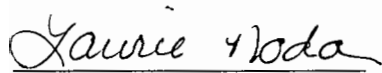
Date: March 28, 2006
By: George Robison
George Robison
Director of Licensing

Date: Mar. 28, '06
By: Stephen Poulter
Stephen Poulter

Date: 3-23-06
By: Boston Financial
Boston Financial
Its: Manager

jm

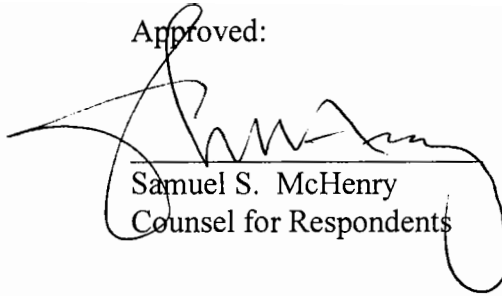
Approved:



Laurie L. Noda
Assistant Attorney General

Division Investigator: RW

Approved:



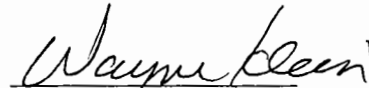
Samuel S. McHenry
Counsel for Respondents



ORDER

The terms of the Stipulation and Consent Order defined above are hereby accepted and incorporated herein as a final order.

DATED this 28th day of March, 2006.



WAYNE KLEIN

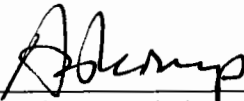
Director, Utah Division of Securities




BY THE UTAH SECURITIES ADVISORY BOARD:

The foregoing Stipulation and Consent Order is hereby accepted, confirmed and approved by the Utah Securities Advisory Board.

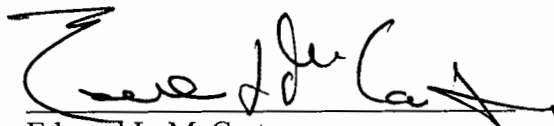
DATED this 29th day of March, 2006.



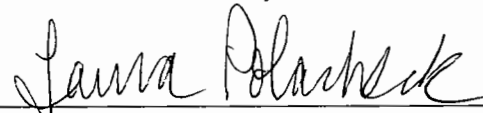
A. Robert Thorup, Chairman



John R. Jackson



Edward L. McCartney



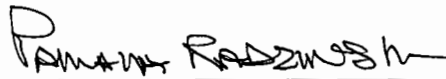
Laura Polacheck



Certificate of Mailing

I certify that on the 7th day of APRIL, 2006, I mailed by regular mail, a true and correct copy of the foregoing Stipulation and Consent Order to:

Samuel S. McHenry
672 Vine Street #2
Murray, UT 84107
Attorney for Respondents



Executive Secretary

